

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN RE:	§	
	§	
NIGHTHAWK OILFIELD SERVICES,	§	Case No. 09-34992
LTD., et al.,	§	(Chapter 7)
	§	Jointly Administered
DEBTOR	§	

**WESTERN OILFIELD SUPPLY, CO.'S LIMITED OBJECTION
TO PROPOSED FORM OF ADEQUATE PROTECTION**

WESTERN OILFIELD SUPPLY, CO. ("Western"), creditor and party in interest, files this Limited Objection to the Proposed Form of Adequate Protection:

1. As adequate protection to Bank of America, the Trustee seeks authority to make three separate private sales of estate property and auction the remainder of estate property, with all sales proceeds to be paid to Bank of America, subject to later Court disgorgement. The sale is sought free and clear of all liens, claims and interests.

2. Bankruptcy Rule 6004(c) provides that:

A motion for authority to sell property free and clear of liens or other interests shall be made in accordance with Rule 9014 and shall be served on the parties who have liens or other interests in the property to be sold.¹

3. As a creditor and potential bidder for the property to be sold, Western is concerned that not all lienholders have been noticed with the Trustee's proposed sale. The property to be sold is spread across six states. A cursory search of the Texas Secretary of State UCC records on some

^{1/} Emphasis added.

of the debtor entities yielded several lienholders not on the Trustee's service list for the proposed sale. For example:

- a) the Texas UCC records of *TSE Acquisition Corporation*, show several non-lapsed UCC-1 financing statements filed by Regions Bank.²
- b) the Texas UCC records of *Richey Oilfield Construction*, show non-lapsed UCC-1 financing statements filed by Citicapital Commercial Corporation, Dell Financial Services, United Equipment Rental and Timepayment Corporation,³ none of which appear on the service list.

4. Besides UCC security interests, Western does not know if the Trustee has conducted inquiry with the many local taxing authorities wherein the equipment has been located to determine if personal property *ad valorem* tax liens are present. For instance, if one of the debtors had personal property in a particular Texas county, the county, the school district and the municipality could all assess taxes on the property and claim liens for unpaid taxes.

5. Furthermore, any liens on trucks and other vehicles being sold would only appear on the certificates of title, rather than the UCC records. Western does not know if the Trustee has examined those certificates to determine if liens exist and secured creditors have been noticed.

6. To resolve this issue, Western respectfully requests that the Court: a) require that the Trustee conduct, or be authorized to hire a service to conduct, a thorough lien and security interest search on the property being sold, and b) postpone the sale/adequate protection hearing until all lienholders have been noticed, or in the alternative, provide that the order authorizing this

^{2/} See copy of Texas Secretary of State UCC search for TSE Acquisition Corporation, attached hereto and incorporated herein by reference as Exhibit "A".

^{3/} See copy of Texas Secretary of State UCC search for Richey Oilfield Construction, attached hereto and incorporated herein by reference as Exhibit "B. Because of its length, only the relevant pages are attached.

sale/adequate protection be served on a “negative notice” basis to give lienholders notice and an opportunity to object.

WHEREFORE, Western respectfully requests that the Court require notice as provided above, and for such other and further relief to which it may show itself to be justly entitled.

Respectfully submitted,
SCHLANGER, SILVER, BARG
& PAINE, L.L.P.

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ATTORNEYS FOR WESTERN OILFIELD
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CERTIFICATE OF SERVICE

On September 1, 2009, a true and correct copy of the foregoing Notice of Appearance and Request for Notice was forwarded to the below listed parties by first class mail postage prepaid or by the Clerk of Court through electronic transmission.

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